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COMMISSION ON HUMAN RIGHTS

Fifty-fifth session

SUMMARY RECORD OF THE 42nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 19 April 1999, at 3 p.m.

Chairperson: Ms. ANDERSON (Ireland)

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INDIGENOUS ISSUES

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (continued)

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The meeting was called to order at 3 p.m.

INDIGENOUS ISSUES (agenda item 15) (E/CN.4/1999/81-83; E/CN.4/1999/NGO/65 and 73-78; A/53/282 and Corr.1 and 310; A/RES/53/129 and 130; E/CN.4/Sub.2/1998/15 and 16; E/CN.4/Sub.2/1994/2/Add.1)

1. Mr. van RIJSSEN (Netherlands), Chairman-Rapporteur of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people in the United Nations system, introducing the working group's report (E/CN.4/1999/83), said that the question of a permanent forum had been under consideration for some 10 years and indigenous organizations - but also a growing number of Governments - wished to speed up the work. The working group had made important progress in its five-day session, drawing on the experience of two United Nations workshops and of conferences organized by the indigenous peoples themselves.

2. The principle of the establishment of a permanent forum had been largely accepted, although some Governments were as yet unable to adopt a final position, with a mandate covering a wide range of issues. The forum should serve as an advisory body to the United Nations system (indigenous representatives wished it to have a policy-making role as well); should not duplicate work done in other forums; should be an open assembly, with a core group consisting of an equal number of government and indigenous representatives; decisions should be taken by consensus; indigenous members should be chosen on the basis of equitable distribution; and the forum should be attached to the Economic and Social Council.

3. He suggested that the forum should be established after the Commission's fifty-sixth session, since that would provide the opportunity for its effectiveness to be examined before the end of the International Decade of the World's Indigenous People in 2004.

4. Mr. URRUTIA (Peru), Chairperson-Rapporteur of the working group established in accordance with Commission on Human Rights resolution 1995/32, introducing the working group's report (E/CN.4/1999/82), said that discussions at the fourth session had been far more open and transparent than in the past, which gave rise to the hope that, even if no draft articles had been adopted, some real progress was being made. More delegations had participated and there had been greater mutual understanding. The principle of the draft declaration had been accepted. All parties knew where they diverged; that was the first step towards finding solutions.

5. The next session should concentrate on draft articles 15-18, on which agreement could be reached. Further work was needed on draft articles 1, 2, 12-14 and 44; in that context, he called for specific amendments to be submitted. A text must be found that was as broadly acceptable as possible.

6. Closer contacts between Governments and indigenous representatives, preferably in their own countries, would be most useful. It was also desirable to secure the fullest participation in the working group and he therefore called on Governments and non-governmental organizations (NGOs) to support the United Nations Voluntary Fund for Indigenous Populations, which provided financial assistance to enable the representatives of indigenous

communities to attend the sessions. In that context, he noted that some indigenous representatives felt that the working group was not structured to allow for the fullest indigenous representation. The working group was clearly unable to make any change without exceeding its mandate; but the concern should be expressed.

7. Ms. TAULI-CORPUZ (Chairperson-Rapporteur, Board of Trustees, United Nations Voluntary Fund for Indigenous Populations) said that, although small compared with other United Nations trust funds, the Fund had made it possible for indigenous leaders and activists to participate in the Sub-Commission's Working Group on Indigenous Populations. With the addition of two new Commission working groups, there were more calls on the Fund: travel grants had been made in 1998 to 50 representatives of indigenous peoples to attend the Working Group and to 25 others to attend the two open-ended working groups. It was expected that the number would increase in 1999, particularly if the draft resolution for a second session of the working group on the permanent forum was adopted.

8. The balance of contributions paid to the Fund by Governments and indigenous organizations, amounting to some US$ 100,000, would not be sufficient to cover the grants envisaged for the year 2000. In spite of what had been achieved in raising the international community's awareness of indigenous issues and views, there was still much to do, including recomposing the Board of Trustees to have more indigenous representatives. An additional amount of at least US$ 500,000 was needed to meet the increasing requests for 2000.

9. Following the appeal contained in Commission resolution 1998/13, the Governments of Bolivia, Denmark, Greece and Tunisia had pledged an amount of US$ 158,000. She therefore appealed for further contributions to both the Fund and the Voluntary Fund for the International Decade of the World's Indigenous Peoples.

10. The direct participation of indigenous peoples in meetings having a direct impact on their lives and those of future generations was of inestimable importance. If they made mistakes, they would have only themselves to blame; and any gains would be due to meaningful partnership with the Governments of the world to ensure that justice, democracy and sustainable development reigned in their communities.

11. Mr. MORALES MORALES (Member, Advisory Group, Voluntary Fund for the International Decade of the World's Indigenous People) said that details of the Fund could be found in documents A/53/310 and E/CN.4/1999/81. In 1997 grants, amounting to US$ 165,000, had been made for 12 projects and, in 1998, a total of US$ 139,000 for 13 projects in indigenous organizations and communities. At its latest session, after considering 120 projects, the Advisory Group had recommended grants totalling US$ 150,000, to be paid once sufficient resources were available.

12. The Fund was made up of voluntary contributions and the new contributions received between the Group's third and fourth sessions had not been sufficient to cover the budget for such activities as a second workshop for indigenous journalists or the two subregional seminars in Africa. A

further US$ 300,000 were required, in addition to the US$ 158,000 already pledged, and he invited donors to contribute to the Fund and thus support the aspirations of indigenous peoples.

13. Mr. CHÁVEZ (Peru) said that, as representing a multicultural and multi-ethnic society, his delegation had played an active part in the working group on a permanent forum for indigenous people. While the establishment of such a forum had undoubtedly been accepted in principle, some questions arose concerning three of its basic features.

14. First and foremost was the definition of its mandate. It should not duplicate the work of other United Nations bodies and its functions should be reviewed once the draft declaration on the rights of indigenous peoples had been adopted. Secondly, its composition should be such as to allow open dialogue on equal terms between Governments and indigenous representatives, as was already the case in the two existing working groups. Thirdly, it should be financed out of the regular United Nations budget, which could be achieved by eliminating expenditure on activities that might overlap with the functions of the permanent forum.

15. In view of the importance it attached to the adequate protection and promotion of indigenous peoples' human rights, his delegation believed that, at its next session, the working group should draw up one or more specific proposals for the forum so as to enable the Commission to reach a definite decision.

16. With regard to the draft declaration on the rights of indigenous peoples, progress had been made over the past four years and the necessary climate of confidence had been created. Greater flexibility was needed on all sides, however. The willingness of the indigenous representatives at the fourth session to consider any proposal to improve or strengthen the text should prompt Governments to redouble their efforts to overcome differences of opinion. Since the principles behind the text had been accepted, its adoption on first reading should not be delayed any longer. His delegation would work on any formula that met the legitimate interests of States and indigenous populations. It hoped that tangible progress could be submitted to the Commission at its fifty-sixth session.

17. Mr. LORD (Canada) said that his delegation intended to introduce a draft resolution authorizing the open-ended inter-sessional working group established pursuant to Commission resolution 1995/32 to meet for 10 days prior to the fifty-sixth session of the Commission. His delegation agreed with the High Commissioner that the draft declaration on the rights of indigenous peoples should establish minimum international standards. He welcomed the report of the working group (E/CN.4/1999/82) on the work of its fourth session and urged that real substantive progress be made on the draft declaration at the fifth session. He hoped that consensus could be reached on articles 15 to 18 and progress made on other articles. To that end, his Government would continue its dialogue with aboriginal leaders and officials in Canada and was prepared to participate in inter-sessional discussions with other States.

18. His delegation supported the Sub-Commission's Working Group on Indigenous Populations, which continued to have a crucial role to play in facilitating dialogue among States, indigenous peoples and bodies of the United Nations system. It also supported the request that the High Commissioner for Human Rights in her capacity as Coordinator of the International Decade of the World's Indigenous People should review the implementation of the Decade, suggesting ways and means of promoting cooperation and partnership on the Decade themes. It would be willing to consider convening a technical meeting on the basis of such a report.

19. His delegation strongly supported the work of the Board of Trustees for the Voluntary Fund for Indigenous Populations and the Voluntary Fund for the International Decade of the World's Indigenous People and deeply appreciated their willingness to seek creative and innovative ways of securing funds.

20. The establishment of a permanent forum for indigenous peoples in the United Nations system would be a major achievement of the Decade, and it was clear that it was receiving increasing support from States and from indigenous peoples. The mandate of the ad hoc working group on a permanent forum should thus be renewed.

21. A recent significant development which reflected the new partnership being established between the Government and aboriginal people of Canada had been the creation, on 1 April 1999, of a new territory called Nunavut, comprising the traditional lands on which the Inuit had lived for thousands of years. The territory would be governed by a locally elected legislative assembly, thus enabling the Inuit to take charge of their own destiny. It would reflect the cherished values, ancient wisdom and traditions of the Inuit.

22. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the Commission's work in the area of indigenous issues was of particular interest to his country, with its large indigenous population. The High Commissioner was to be commended on her report on the implementation of the programme of activities for the Decade (E/CN.4/1999/81). It was unfortunate that work on the draft declaration had come to a standstill, partly as a result of the unyielding position of some indigenous organizations. Future work on the draft declaration should aim at securing agreement on the basic themes and definitions, while endeavouring to reach a consensus on the less controversial topics. States and indigenous peoples must be actively involved in both those efforts.

23. The work to date on establishing a permanent forum for indigenous peoples had been positive. Future work must reflect the fact that the permanent forum was to be a democratic mechanism for promoting consensus within the United Nations system on topics relating to indigenous peoples. The philosophy of integrating States and civil society was fundamental to one of the system's oldest organizations, the International Labour Organization (ILO) which offered practical guidance as to how the indigenous peoples might work democratically alongside States.

24. Mr. CHELIA (Argentina), having welcomed the report of the working group established in accordance with Commission resolution 1995/32 (E/CN.4/1999/82) and commended the efforts of its Chairperson-Rapporteur, said that, in the

working group's 1998 meetings, a constructive tendency had been observed in the attitude of participating States which had made it possible to identify clearly the obstacles to further progress. More importantly, many State participants had displayed a willingness to acknowledge the human rights of indigenous peoples. The current regional negotiations on an inter-American declaration on indigenous peoples might serve as an example for the working group in negotiating the draft United Nations declaration, and his delegation believed that the working group's mandate should be renewed.

25. His delegation also welcomed the report of the open-ended inter-sessional ad hoc working group on a permanent forum for indigenous people in the United Nations system (E/CN.4/1999/83) and believed that its Chairman-Rapporteur should be authorized to hold inter-sessional consultations and meetings. The working group should also be authorized to hold one last session with a view to preparing proposals for the establishment of a permanent forum that could be submitted to the Commission at its fifty-sixth session. The forum should function at a high level within the United Nations and report to the Commission, ultimately replacing the Sub-Commission's Working Group on Indigenous Populations. Delegations to the permanent forum should be mixed, composed of representatives of Governments and of freely elected representatives of national indigenous populations.

26. In Argentina, consultations had been held in 1998 on the rights of indigenous peoples as provided for in the 1994 Constitution. An Argentine Indigenous Peoples' Council had been established to represent indigenous communities before the State, and reforms had been implemented at the national and provincial levels which had enabled communities to purchase or reclaim land. Funds from the Inter-American Development Bank, the European Union and the World Bank were financing programmes intended to address the needs of vulnerable populations and develop protected indigenous areas. Lastly, indigenous census-takers would take part in the national population census to be conducted in 2000, in the hope of obtaining more accurate data on indigenous groups.

27. Mr. LEPATAN (Philippines) said that the National Commission on Indigenous Peoples, which was about to begin operation in the Philippines, was one of a series of national bodies that reflected his Government's belief that the establishment and strengthening of such institutions was the best way to enhance human rights in the long term. The National Commission would formulate policies and programmes in an area relatively unexplored in the Philippines. Land rights and the provision of technical services to indigenous communities in the area of land management would be among its priority tasks.

28. The Commission had quasi-judicial powers, with jurisdiction over all claims and disputes involving the rights of indigenous peoples. It would eventually harmonize its plans with other government programmes, particularly in the areas of social reform, health and education services, environmental protection and sustainable development. It was expected that the Commission would be a major force in the country's economic and social development, and it was to be hoped that, with experience, it would contribute to global efforts to promote and protect the rights of indigenous peoples.

29. Ms. PRÍA (Mexico) said that the constant activity taking place in the context of the Decade had pointed up the limitation of policies, models and programmes for the development of indigenous peoples. The proposal to create a permanent forum offered an opportunity to formulate new policies and create specific structures that would promote the attainment of the Decade's objectives. Her delegation believed that the forum should be located in New York and should report to the Economic and Social Council, with a mandate and budget greater than those of a subcommission. She welcomed the interest expressed by indigenous groups in the forum.

30. Her delegation believed that indigenous populations should be represented in international bodies, and particularly in the permanent forum, alongside national Governments, in order to ensure that they had a voice in decisions relating to their development as well as respect for cultural diversity. The manner in which the representatives of indigenous communities were to be chosen must be clearly defined.

31. The time was right for a new initiative: Governments and institutions had a new awareness of indigenous issues, and a number of financial organizations had issued guidelines for indigenous projects. Most importantly, the demands of indigenous peoples had undergone a qualitative change, adding prospects for comprehensive development to the satisfaction of basic needs.

32. A process of legislative reform had been initiated at the national and local levels in her own country with a view to accommodating the special features of indigenous peoples and communities. Special offices dealing with indigenous people had been established in the National Human Rights Commission and the Office of the Attorney-General, and many agencies and programmes existed within the various States. The transfer of resources and functions from State institutions to communities and traditional authorities had increased.

33. The National Indigenous Institute, of which she was Director-General, had developed a programme to promote the access of indigenous people to the courts, provide legal advice and defence and help with the release of indigenous persons from prison. The Institute operated more than 1,000 school shelters which sought to meet the needs of indigenous children whose own communities lacked educational facilities and had provided significant funding to social organizations for economic development projects that were set up and run by indigenous communities. Radio broadcasts were transmitted in 32 indigenous languages and training and cultural projects were also organized.

34. Her Government had made a priority of defining a new alliance between indigenous peoples and Mexican society characterized by respect for the legitimate rights of those peoples. The current generation of Mexicans would have to take up the challenge of overcoming the historic lag in the development of the indigenous peoples.

35. Mr. HILL (Observer for New Zealand) said that there was a need for greater coordination of United Nations activities in order to ensure that the views of indigenous people were reflected in the planning processes of the

various agencies. While progress towards agreement on a draft declaration on the rights of indigenous peoples had been limited, his delegation had been encouraged by the increased level of participation by States and the more open dialogue between States and indigenous representatives at the working group's most recent session.

36. His delegation had also been encouraged by the progress made by the ad hoc working group on a permanent forum for indigenous people. His Government planned to hold a workshop for government officials and Maori to discuss progress on both the draft declaration and the permanent forum.

37. The Ministry of Maori Development was the lead agency for implementing New Zealand's domestic programme of action for the International Decade. A Decade Fund had been established to support projects for the development and promotion of the Maori language, and a mid-point review of national activities related to the Decade would endeavour to broaden the range of activities to be carried out in its second half.

38. One of the Government's key goals was to continue to build relationships with the Maori and to improve their social and economic status. To date, historical claims under the Treaty of Waitangi, covering 53 per cent of the country's total land area, had been settled as had all historical claims relating to commercial fisheries. Settlements generally included a formal apology from the Crown for breaching the Treaty, the transfer of cash and assets, and recognition of indigenous peoples' interests in particular sites and species. Claimant groups were no longer required to conduct detailed research to validate their claims, provided they could demonstrate that their ancestors had been prejudiced as a result of government action. In the circumstances, his delegation welcomed the intention of the Working Group on Indigenous Populations to focus on the theme of "Indigenous peoples and their relationship to land" at its forthcoming session.

39. Mr. BRUUN (Observer for Denmark), speaking on behalf of the Nordic countries, commended the High Commissioner for Human Rights on her work as Coordinator for the International Decade of the World's Indigenous People and welcomed the fact that her Office was to organize a seminar on draft principles and guidelines on the protection of the heritage of indigenous peoples. The Nordic countries considered that the establishment of a permanent forum for indigenous people in the United Nations system was within reach. The nature and level of the participation of indigenous peoples in the forum was a key issue and it was of the utmost importance that their concerns be taken seriously. Because of the momentum that had been generated, the ad hoc working group must be given the opportunity to meet for a second session to finalize its work.

40. The drafting of a declaration on the rights of indigenous peoples had been under way for many years and it was essential to build on the emerging consensus among Governments and indigenous peoples in the relevant working group. That could be done by reviewing the existing draft with the aim of improving and strengthening its text and accommodating the reasonable concerns of the interested parties.

41. Mrs. CASATI (Observer for Paraguay) said that her country's Constitution defined "Indigenous people" as groups whose culture pre-dated the formation and organization of the Paraguayan State. It recognized their right to preserve and develop their ethnic identity, to establish their own systems of organization and to obey their customary rules of community coexistence provided that they did not contravene fundamental constitutional rights. Under the Constitution, Paraguay was a multicultural and bilingual country with Spanish and Guaraní as the official languages. The law respected the cultural specificities of the indigenous people, and their close ties with their places of origin were recognized by the restoration of their land, with the help of the Paraguayan National Institute for Indigenous People.

42. Her delegation considered it necessary to establish a permanent forum for indigenous people in the United Nations system, and appealed to the donor community to continue its contributions to the Voluntary Fund for Indigenous Populations and the Voluntary Fund for the International Decade of the World's Indigenous People.

43. Mr. ZOZULIA (Observer for Ukraine) said there was no consensus so far on some important provisions of the draft declaration on the rights of indigenous peoples and the document had a general tone of isolationism and a lack of a spirit of cooperation between indigenous peoples, Governments and the international community. It did not differentiate between assimilation and integration, although no society or nation could exist without the integration of its various ethnic groups. He could see no sign in the draft of a willingness to seek understanding in society and no reference to the United Nations as a possible guarantor of the rights of indigenous peoples.

44. Another serious shortcoming was the absence of a universally accepted definition of the term "indigenous". Use of the word "peoples" in the text carried no implications regarding the right of self-determination or any other rights that might be attached to the term under international law. The working group should also address the declaration's scope of application. To ensure that it was universally acceptable, the text should be brought into line with internationally recognized human rights standards and national laws.

45. The declaration should make a clear distinction between indigenous entities leading a tribal way of life in isolated reservations and those that were integrated with the rest of society. As it stood, the text was heavily oriented towards tribal people. There were references throughout to indigenous peoples as being distinct as well as claims for their preferential treatment, which would hardly contribute to inter-ethnic peace and understanding in any society.

46. In Ukraine, where millions of people, including indigenous ones, had been dispossessed and forcibly deported half a century previously, some of them and their descendants were returning home, and one of the most urgent tasks his Government faced was to ensure their smooth and peaceful reintegration into society, without infringing upon the rights of the other residents.

47. It was important to preserve a spirit of partnership and cooperation in further work on the draft declaration and regional consultations should be held between Governments and indigenous peoples with the assistance of the Office of the High Commissioner for Human Rights (OHCHR).

48. Mrs. AVILA SEIFERT (Observer for Bolivia) said that the Bolivian Constitution recognized the country's multi-ethnic and multicultural nature and indigenous issues were mainstreamed in its programme of national development. An agrarian reform law guaranteed the right of land ownership, with due account being taken of the specific features of each indigenous and aboriginal people, and a forest law guaranteed them the exclusive use of the forests in their community lands and the freedom to distribute those lands for family and individual use.

49. Indigenous communities were fully incorporated into Bolivia's legal, political and economic system, with the Constitution authorizing customary indigenous law, provided that its application did not conflict with constitutional provisions. The new Criminal Code provided for interpretation into the language of an accused indigenous person and for the advice of an expert on indigenous affairs. Other laws acknowledged the contribution made by indigenous people to the conservation and sustainable use of biological diversity and to the protection of the environment. Intercultural and bilingual education was also provided.

50. Her delegation supported the establishment of a permanent forum for indigenous people in the United Nations system and the elaboration of a draft declaration on the rights of indigenous peoples. It also commended the work of the High Commissioner for Human Rights as Coordinator of the International Decade.

51. Mr. VIGNY (Observer for Switzerland) said that States and indigenous representatives alike should demonstrate good will and pragmatism and establish a permanent forum for indigenous people in the United Nations system. Another objective of the International Decade was the adoption of a declaration on the rights of indigenous peoples, and his delegation deplored the sterile debates being held on the supposed need for a definition of indigenous peoples, which might well prevent the achievement of a declaration.

52. There was already a consensus broadly covering the controversial question of the self-determination of indigenous peoples and what was required was the application of the principle of subsidiarity, to enable indigenous peoples to be integrated without being assimilated and, if they were divided by an international border, to retain their links and cooperate with their kinsmen on the other side. Switzerland's own position, as a country made up of a number of minorities, was that respect for cultural diversity was a factor not only of enrichment but also of peace and cohesion. Specific protection of indigenous peoples was required, as well as a recognition of their rights.

53. Ms. TALVET (Observer for Estonia) said it was important to build on the progress made by the ad hoc working group on the establishment of a permanent forum for indigenous people in the United Nations system. Many participants, including her own delegation, were of the opinion that the working group

should be reconvened to finalize its work and to submit a concrete action plan for consideration and adoption by the Commission at its fifty-sixth session. Active inter-sessional consultations might facilitate the working group's deliberations. The first half of the International Decade had helped to raise awareness and build partnerships; the second half should bear tangible fruit.

54. Mr. HEYWARD (Observer for Australia) said that his Government was committed to achieving true reconciliation with the Aboriginal people of Australia by the centenary of the Federation. Australia's indigenous population - currently 2 per cent - had increased in size by one third between the censuses of 1991 and 1996 and, as compared with the overall population, contained a high proportion of young people. Indigenous people were more likely to live outside the big cities, to live in larger households, to have more children, to live in one-parent families, to be unemployed, and to enjoy lower standards of health and education than the rest of the population.

55. Those were the key issues being addressed by government policy. His Government was currently spending $A 1.9 billion on indigenous-specific programmes, with more than 70 per cent of that figure being used to improve health, housing, education and employment. There were currently more than 7,000 indigenous students in higher education; more than 33,000 indigenous people were participating in a scheme that allowed them to undertake paid work on community projects instead of receiving unemployment benefit; and the Government had committed $A 25 million to tackling the issue of domestic violence in indigenous communities.

56. Mrs. NOGUEROL ALVAREZ (Observer for Spain) said that her delegation firmly supported the establishment of a permanent forum for indigenous people in the United Nations system before the end of the International Decade and regretted that the Secretariat had not annexed to the report of the ad hoc working group (E/CN.4/1999/83) the document it had submitted in due time and form for official distribution. The working group should meet for a second session to finalize its work. The permanent forum should be established at a high level and should be subordinate to the Economic and Social Council. It should have a broad mandate and be financed from the United Nations regular budget.

57. One of its main functions should be to define strategies for the development of indigenous people, which would guide the formulation of policies and programmes. It should also coordinate the activities of Governments, specialized agencies and experts and submit recommendations to the Council. Its membership should be mixed, and similar to the tripartite composition of the ILO. It should have an assembly in which representatives of Governments and of indigenous peoples, as well as experts and representatives of specialized agencies, could all participate. The assembly should establish a council or executive committee, as the sole decision-making body, with a limited membership balanced between governmental and indigenous representatives.

58. Ms. MOYA (American Association of Jurists) said that the struggles in the Mexican State of Chiapas expressed indigenous resistance to the deterioration of human rights in the region. Although the Government of Mexico had been requested by the Sub-Commission at its fiftieth session to

attach the highest priority to combating the impunity of perpetrators of serious human rights violations, there had been an increase in the military presence in Chiapas, and paramilitary bands continued to carry out unlawful activities with impunity. A number of social and health problems had appeared in the indigenous community as a result of the war and indigenous women were often subject to sexual harassment.

59. Since the Acteal massacre of December 1997, the federal and State authorities had created a climate of provocation against communities sympathizing with the Zapatista National Liberation Army (EZLN). An offensive had been waged against the autonomous municipalities, resulting in serious and systematic violations of human rights, as documented by the National Human Rights Commission, by local and federal deputies, NGOs and national and foreign civilian observers. The offensive had generated new waves of refugees, fleeing from police, military and paramilitary persecution. Hundreds of people had been taken into custody and denied due process.

60. The only possible solution to the problem was the implementation of the 1996 San Andrés Agreements on Indigenous Rights and Culture, which had been drafted by parliamentarians representing all parties and were consistent with ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. However, they had been severely restricted by the unilateral bill submitted by the Federal Executive to the Chamber of Senators in 1998. The dialogue process had since been blocked.

61. She asked the Commission to appoint a special rapporteur on the human rights situation in Mexico as a matter of urgency. It was also vital that the Special Rapporteur on extrajudicial, summary or arbitrary executions and the High Commissioner for Human Rights should visit the country as scheduled.

62. Ms. MILLER (Centre Europe - tiers monde) said that the North American Free Trade Agreement (NAFTA) had been imposed on the indigenous peoples of Mexico with devastating results. The Zapatistas of Chiapas had refused to accept such policies as land expropriation, denial of autonomy and privatization of strategic resources, and demanded respect for their collective rights.

63. The Government of Mexico had rejected the bill drafted on the basis of the San Andrés Agreements by a Parliamentary Commission and was trying to impose a unilateral bill which would severely curtail the rights of indigenous peoples. It was also waging a low-intensity war against the Zapatista communities of Chiapas. Over one third of the Mexican army was deployed in the area and paramilitary groups proliferated, carrying out serious depredations and human rights violations with complete impunity. On 7 April 1999, security forces had attacked the commune of San Andrés, seat of the indigenous Autonomous Council and of the 1996 peace negotiations.

64. In view of the Government's failure to comply with the recommendations of United Nations bodies and of the Inter-American Commission on Human Rights, her organization urged the Commission to appoint a special rapporteur on the situation of human rights in Mexico. The planned visits by the Special Rapporteur on extrajudicial, summary or arbitrary executions and the High Commissioner for Human Rights should also take place as scheduled.

65. Ms. CUNNINGHAM (International Human Rights Law Group) said that there was a clear cut relationship in Nicaragua between family violence and women's earnings from employment, the earnings of women subjected to domestic violence being much lower than those of other women. Data also revealed that the incidence of violence against indigenous women was higher than in the case of the rest of the population.

66. The effect of structural adjustment measures was a violation of social and economic rights in Nicaragua and indigenous women were the worst affected group. Abuse of alcohol and drugs, unemployment and migration had accelerated the process of social disintegration of indigenous communities and exacerbated domestic violence. The legal system and other structures of the dominant culture impeded the access of indigenous peoples to justice, land, education, health and credit.

67. She urged the Commission to appoint a special rapporteur on the situation of indigenous peoples. She also asked it to authorize the Special Rapporteur on violence against women to visit Nicaragua.

68. Mr. AGUILAR (Foodfirst Information and Action Network (FIAN)) drew attention to violations of the human rights of the indigenous peoples of Venezuela, especially the peoples living in the Forest Reserve of Imataca, Canaima National Park and the La Paragua river basin. Presidential Decree 1850 contained a plan for the exploitation of almost 50 per cent of the Imataca Forest Reserve by transnational mining corporations, ignoring the existence of indigenous peoples there. The situation had been further exacerbated by an electric cable project connecting Venezuela with Brazil which would cut through ancestral lands, destroying water sources, plants, animals, soil and other important resources. The mining, tourism and forestry enterprises to be supplied with electric energy would destroy large tracts of protected land and forests.

69. The peaceful protests of the indigenous peoples had failed to elicit a satisfactory response. They had filed petitions with the Supreme Court of Justice and other bodies aimed at securing recognition of their title to the land and the cancellation of the projects in order to ensure their survival and the conservation of the forests and other resources. They called upon the Government of Venezuela to recognize their rights under the Constitution; on the Congress of the Republic to ratify ILO Convention No. 169; and on the Supreme Court of Justice to rule as soon as possible on the applications to have Presidential Decree 1850 declared null and void.

70. He urged the Commission to appoint a special rapporteur on the human rights of indigenous peoples and a special rapporteur on the situation of human rights in Mexico, particularly those of its indigenous peoples.

71. Mr. CHAYMA (Asian Cultural Forum on Development) said that only 2,500 members of the Vedda community, one of the oldest in Sri Lanka, had not yet been Sinhalized. They had been dispossessed of their natural habitat by the Gal Oya irrigation project, the Mahaweli project and the Maduru Oya National Park. President Kumaratunga's statement in 1997 that the Veddas would be allowed to continue their traditional way of life was welcome but could not be put into effect without specific legislation.

72. Similar policies by the Government of India had led to the near-extinction of the Jarawas, the Sentinelese and the Great Andamanese, and to the complete extinction of the Onges of Andaman and Nicobar Island.

73. His organization was concerned at the lack of progress in the open-ended inter-sessional working group to elaborate a draft United Nations declaration on the rights of indigenous peoples. States participating in the proceedings must recognize the coexistence of collective and individual rights in international law.

74. The Special Rapporteur on treaties, agreements and other constructive arrangements between States and indigenous populations stated, in the unedited version of his final report, that the presence of indigenous peoples in Asia and Africa was "problematic". Since the Government of the Philippines had passed the Indigenous Peoples Act, Malaysia recognized indigenous peoples in its Constitution, Scheduled Tribes were recognized in India and members of tribal or semi-tribal populations were regarded as indigenous in Bangladesh, he appealed to the Special Rapporteur to delete the chapter entitled "Some key points of departure" from his final report.

75. His organization urged the Government of Australia to implement the recommendations concerning aboriginal rights made by the Committee on the Elimination of Racial Discrimination at its fifty-fourth session in March 1999 and to suspend implementation of the Native Title Amendment Act 1998.

76. Ms. ALI (Afro-Asian People's Solidarity Organization) said that the Kashmiri Pandit community was threatened with extinction. The Pandits, the original inhabitants of Kashmir, with a recorded presence spanning several millennia, had a distinctive language, culture and way of life and, until recently, had lived in harmony with the Muslim majority. However, the entire community had been forced by terrorism to flee to other parts of India and was currently housed in makeshift camps.

77. The wretched conditions in which they lived had been amply documented but when they sought to return home, massacres were organized to deter them. Religious fundamentalist bigots, financed and trained in a neighbouring country and aided by international mercenaries, were determined to cleanse pluralist and tolerant Kashmiri society of all those who did not share their narrow world view. She urged the Commission to assist the members of the indigenous Pandit community to return to their homes.

78. Ms. GRAF (International League for the Rights and Liberation of Peoples) said that, in Latin American countries with large indigenous populations, legislation was designed to permit continued marginalization of those populations and ongoing violations of their rights. The authorities concerned were past masters at presenting themselves as bastions of democracy. Guatemala's doctrine of State security had been taken over by Mexico to justify the militarization of the States of Chiapas, Oaxaca and Guerrero so as to crush the campaign of the indigenous population against corrupt leaders and

governmental bodies. Mexican civil society and her own organization urged the Commission to appoint a special rapporteur to examine the situation there.

79. It was encouraging that the proposed establishment of a permanent forum for indigenous people in the United Nations system had been widely accepted and she hoped that the representatives of the indigenous peoples would be able to use the forum to express their views without being subjected to government pressure and that the participating Governments would refrain from manipulating the representation of their indigenous peoples.

80. Her organization was looking forward to the organization by OHCHR of a seminar on draft principles and guidelines on the protection of the heritage of indigenous peoples in accordance with Commission decision 1998/103.

81. She asked the Special Rapporteur on indigenous peoples and their relationship to land to submit a progress report to the Working Group on Indigenous Peoples at its forthcoming session and urged the Commission to appoint a special rapporteur on the human rights of indigenous peoples.

RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND ALL FORMS OF DISCRIMINATION (agenda item 6) (continued) (E/CN.4/1999/16)

82. Mrs. DIALLO (Senegal), Chairperson-Rapporteur of the sessional open-ended working group to review and formulate proposals for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, introducing the working group's report (E/CN.4/1999/16) said it was the product of wide-ranging consultations involving States, the Committee on the Elimination of Racial Discrimination, the Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia, and NGOs. The two annexes contained proposals by the African Group and by the Sub-Committee on Racism, Racial Discrimination and Decolonization of the Special Committee of International Non-Governmental Organizations on Human Rights.

83. The report dealt with substantive issues relating to the seven objectives of the Conference, as specified in General Assembly resolution 52/111, and contained a Chairperson's summary of the main points that might be reflected in the draft resolution on the Conference. The working group had agreed on the need to focus on specific activities that would assist victims of racism and racial discrimination and to hold regional conferences to gather information on useful practices and on obstacles and problems. The working group had also agreed that most problems of racism and racial discrimination could be solved through regional, national and local action involving NGOs, cultural and sporting bodies and other components of civil society. A special effort should thus be made to finance effective NGO participation in the preparations for the Conference.

84. Since the Conference should not be viewed as an end in itself, the working group drew the Commission's attention to a number of proposals aimed at enhancing the capacity of OHCHR by establishing a focal point both to assist in preparing the Conference and to implement and follow up the resulting programme of action.

85. Unless the Secretariat received a formal invitation from a prospective host country, the Conference would be held at Geneva, but the working group felt that its impact would be enhanced if it were held in a country whose decisive action in the fight against racism had given it symbolic status.

86. The CHAIRPERSON, said she assumed that the Commission wished to take note of the working group's report (E/CN.4/1999/16).

87. It was so decided.

The meeting rose at 6 p.m.